IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.3586 OF 2005

Shikshan Samiti Kasba Nesari : Petitioner

V/s.

Shri Vasant Ramchandra Patil & Ors. : Respondents

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Mr.S.P.Kadam for the petitioner.

Mr.S.S.Pakale for respondent no.1.

Mr.A.H.Palekar, Asstt. Govt. Pleader for respondent nos.2 to 4.

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CORAM : S.A. BOBDE, J.

June 16, 2005.

P.C.:

1. Rule.

Mr.Pakale for the respondent no.1 and Mr.Palekar, learned Asstt. Govt. Pleader for the respondent nos.2 to 4, appear and waive service of rule.

Rule is made returnable forthwith and heard by consent.

2. The petitioner-society has challenged the order of the School Tribunal directing reinstatement of the respondent no.1 to his original post from the date of his termination

i.e. 31.12.2002 with back wages till his reinstatement along with continuity of service, etc.

3. The petitioner had appointed the respondent no.1 as a Senior Clerk in Batkanangale School run by the petitioner no.1. The respondent no.1 expressed his intention to take voluntary retirement from his employment. This was done by a letter dated 31.8.2002. Apparently, thereafter, there was some dispute between the petitioner and the respondent no.1 as to whether the petitioners owed certain amount to the respondent no.1 or the respondent no.1 owed the amount to the petitioners. According to the petitioners, the respondent no.1 was liable to pay Rs.5,23,800/- to the petitioners and according to the respondent no.1, the petitioners were liable to pay a sum of Rs.4,86,876/- to him. The respondent no.1, therefore, referred to this aspect of the matter and withdrew his request for voluntary retirement before it took effect on 1.12.2002. This request of withdrawal was sent on 27.11.2002. It is, therefore, clear that there was no operative request for voluntary retirement from the service of the petitioners, but the petitioner "relieved" him from his post.

4. The Tribunal,in the appeal filed by the the respondent

no.1, has rightly observed that the termination was not in accordance with law since the request for voluntary retirement for which in any case there is no provision in the Rules, was withdrawn before it took effect. The Tribunal was, therefore, right in setting aside the termination of the respondent no.1. There is no infirmity, jurisdictional or otherwise in the order of the Tribunal. There is no merit in the petition which is hereby dismissed.

5. The rule stands discharged.

S.A. BOBDE, J.